# FLAG AND GENERAL OFFICER STRENGTHS

## HEARING

BEFORE THE

## SUBCOMMITTEE ON MANPOWER AND PERSONNEL

OF THE

## COMMITTEE ON ARMED SERVICES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

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# FLAG AND GENERAL OFFICER STRENGTHS

THURSDAY, SEPTEMBER 17, 1981

U.S. SENATE,
SUBCOMMITTEE ON MANPOWER AND PERSONNEL,
COMMITTEE ON ARMED SERVICES,
*Washington, D.C.*

The subcommittee met in open session at 9:53 a.m., in room 212, Russell Senate Office Building, Senator Roger Jepsen, chairman, presiding.

Present: Senators Jepsen, Exon, and Nunn.

Staff present: Anthony J. Principi and David S. Lyles, professional staff members; Richard D. Finn, and Ralph O. White, Jr., research assistants; and Jacquie S. O'Grady, staff assistant.

Also present: Jim Dykstra, assistant to Senator Cohen; Bill Furniss, assistant to Senator Quayle; Gray Armistead, assistant to Senator Byrd; Arnold Punaro, assistant to Senator Nunn; and Greg Pallas, Assistant to Senator Exon.

## OPENING STATEMENT BY SENATOR ROGER W. JEPSEN, CHAIRMAN

Senator JEPSEN. The subcommittee will come to order.

The Subcommittee on Manpower and Personnel meets today to consider the testimony of Dr. Lawrence Korb, Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, concerning legislation affecting general and flag officers.

A legislative proposal to eliminate general and flag officer grade requirements from certain statutory positions and to defer for 1 year the ceiling of 1,073 general and flag officers imposed by the fiscal year 1978 DOD Authorization Act has been received by the committee.

The large number of flag and general officers, together with their associated command support, has been of serious concern. History will show that the Subcommittee on Manpower and Personnel received extensive testimony on this issue. As a result of the testimony received at these manpower hearings, the committee was of the firm opinion that in the absence of justification for the large number of flag and general officers on active duty action should be taken by the Congress.

Accordingly, the fiscal year 1978 Authorization Act required a reduction in the number of generals and admirals to 1,073 by September 30, 1980. At the request of the Department of Defense, the Senate Armed Services Committee adopted an amendment to the fiscal year 1981 authorization bill that postponed the date by which the number of general and flag officers could not exceed 1,073 until September 30, 1981.

This suspension was granted in order to give DOD until March 1, 1981, to submit recommendations on comprehensive legislation governing the management of all flag and general officers.

Unfortunately, the Department of Defense has not been able to submit this comprehensive legislation to the committee. This administration, however, has submitted the first part of this legislation for our consideration.

Based upon the track record of this issue, this is indeed a significant step. I earnestly hope that it will continue. In this regard, I wish to acknowledge the work and cooperation that Col. Fred Pang of the U.S. Air Force and his staff have provided this subcommittee. Their efforts have been most helpful in making this hearing possible.

Senator Thurmond recently introduced S. 1008, a bill concerning retired officers of the Armed Forces who are recalled to active duty and detailed to duty with the American Battle Monuments Commission.

I now ask that the remarks of my distinguished colleague from South Carolina, Senator Thurmond, be entered into the record. He was to have made them and was called to the White House and could not attend, so his remarks will be entered in the record as if read, if there is no objection.

I hear none, so it is so ordered.

[Prepared statement of Senator Thurmond follows:]

PREPARED STATEMENT BY SENATOR THURMOND

Mr. Chairman: On April 27, 1981, I introduced S. 1008, a bill which would provide that retired officers of the armed services recalled to active duty and detailed with the American Battle Monuments Commission shall not be charged against the grade limitations prescribed for the military departments.

This bill was reported to the Senate on May 15, 1981, by the Committee on Veterans' Affairs, along with a provision which would create a Prisoner of War Recognition Medal.

Today I am proposing as an amendment to the grade limitation proposal only that portion of the bill which concerns the American Battle Monuments Commission.

Mr. Chairman, the American Battle Monuments Commission, created by Congress in 1923, performs very important functions for our country. These functions include the commemoration of achievements and sacrifices of members of the U.S. Armed Forces who have served since April 6, 1917, through the erection and maintenance of memorial shrines and the construction and maintenance of permanent American military burial grounds in foreign countries.

Because of the nature of the Commission's tasks, Congress considered it desirable that the Commission be administered by an active duty military officer with the title of Secretary. This was provided in the enabling legislation. The legislation also provided for recall of other armed services retired personnel to assist in carrying out the Commission's functions. There are currently six military officers assigned to key positions on the Commission involving command, control, and technical expertise. While the Commission reimburses the military for all the pay and allowances for these officers, they are nonetheless counted against the active duty grade authorizations of the military department tasked to support the Commission.

Mr. Chairman, on several occasions the Defense Department has moved to withdraw support of the full-time Administrator of the Commission, a general officer position appointed by the President.

However, on July 10, 1981 the General Counsel of the Defense Department advised the Committee that the Department had no objection to enactment of S. 1008 provided the "Prisoner of War" medal was deleted and several modifications were made in the bill language.

Thus, the amendment I propose to the Subcommittee includes these modifications and has the full support of the Defense Department. It reads as follows:

"Notwithstanding any other provision of law, any retired member of the Armed Forces recalled to active duty and detailed to full-time duty with the Commission shall not be chargeable against the grade limitations prescribed by law for the Army, Navy, Air Force, or Marine Corps."

Mr. Chairman, I believe this uniquely important agency will continue to have problems until Congress removes its military positions from the grade limitations. Therefore, I request that the subcommittee carefully consider this amendment.

PROPOSED COMMITTEE AMENDMENT TO THE GRADE LIMITATIONS BILL
BY MR. THURMOND

viz: At the appropriate place in the bill insert a new section as follows:

Sec. . The fourth paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121), is amended to read as follows:

"Notwithstanding any other provision of law, any retired member of the Armed Forces recalled to active duty and detailed to full-time duty with the Commission shall not be chargeable against the grade limitations prescribed by law for the Army, Navy, Air Force, or Marine Corps.".

Senator JEPSEN. Senator Exon?

Senator EXON. Thank you, Mr. Chairman.

I have no opening statement, other than to say I am looking forward to the testimony from our witness and welcome him back before the subcommittee once again.

I will have some questions on the matter at hand after he finishes his testimony.

Senator JEPSEN. Dr. Korb, you may proceed.

**STATEMENT OF HON. LAWRENCE J. KORB, ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER, RESERVE AFFAIRS AND LOGISTICS, ACCOMPANIED BY MAJ. GEN. WILLIAM L. WEBB, ACTING DEPUTY CHIEF OF STAFF FOR PERSONNEL, U.S. ARMY; VICE ADM. LANDO W. ZECH, USN, DEPUTY CHIEF OF NAVAL OPERATIONS FOR MANPOWER, PERSONNEL AND TRAINING; MAJ. GEN. HERBERT L. EMANUEL, ASSISTANT DEPUTY CHIEF OF STAFF FOR MANPOWER, U.S. AIR FORCE; AND LT. GEN. EDWARD J. BRONARS, DEPUTY CHIEF OF STAFF FOR MANPOWER, U.S. MARINE CORPS**

Dr. KORB. Mr. Chairman and Senator Exon, I appreciate the opportunity to appear before you today to testify on behalf of the bill before us "to eliminate general or flag officer grade requirements from certain statutory positions in the Armed Forces, and for other purposes."

Accompanying me today are Maj. Gen. William L. Webb, Acting Deputy Chief of Staff for Personnel, U.S. Army; Vice Adm. Lando W. Zech, Deputy Chief of Naval Operations for Manpower, Personnel and Training; Maj. Gen. Herbert L. Emanuel, Assistant Deputy Chief of Staff for Manpower and Personnel, U.S. Air Force; and Lt. Gen. Edward J. Bronars, Deputy Chief of Staff for Manpower, U.S. Marine Corps.

BEST COPY AVAILABLE

These gentlemen will be available to respond to any specific questions you may have dealing with their particular service.

Before getting into the details of this legislation, I would like to acknowledge the assistance provided by members of the subcommittee staff in the development of this first phase of follow-on legislation to the Defense Officer Personnel Management Act—DOPMA—impacting on general and flag officer management.

The proposed legislation complies in part with action directed by the Senate Armed Services Committee in its report on the fiscal year 1981 Department of Defense authorization request which, among other things, directed the Department to submit "legislative recommendations designed to repeal all minimum grades for flag officers in current law."

It will also serve as the basis for legislation which we plan to submit next year that would reform and modernize the remaining laws governing the management of general and flag officers, including grade validation methodology, interface between military and civilian senior executive requirements, and other aspects of general and flag officer personnel management.

The military departments have participated in the development of this legislation and support it.

I would like now to briefly discuss its major features:

The proposed legislation would amend certain sections of law to eliminate minimum grade requirements currently prescribed for 38 general and flag officer positions in the categories of inspector generals, judge advocates general, surgeons general, chaplains and other staff functions, along with positions in the Reserve forces. The specific positions are listed in table I.

TABLE I—POSITIONS ELIMINATING MINIMUM GRADE

Military Advisor to the Chairman and Executive Officer, Reserve Forces Policy Board.
Senior Army Member of the Military Staff of the United Nations.
Senior Navy Member of the Military Staff of the United Nations.
Senior Air Force Member of the Military Staff of the United Nations.
Assistant Chief of Staff (Intelligence) (Army).
Assistant Chief of Staff (Automation and Communcations) (Army).
Assistant Chief of Staff (Undesignated) (Army).
Assistant Chief of Staff (Undesignated) (Army).
Assistant Chief of Staff (Undesignated) (Army).
President, Mississippi River Commission.
Chief of Army Reserve.
Chief of the National Guard Bureau.
Chief of Chaplains (Army).
Inspector General (Army).
Provost Marshal General (Army).
The Judge Advocate General (Army).
Assistant Judge Advocate General (Army).
Assistant Judge Advocate General for Civil Law (Army).
Assistant Judge Advocate General for Military Law (Army).
Brigadier General, Army Judge Advocate General Corps.
Surgeon General (Army).
Assistant Surgeon General (Dental) (Army).
Assistant Chief of Engineers in Charge of Civil Works (Army).
Assistant Chief of Engineers in Charge of Military Programs (Army).
Dean of the Academic Board, United States Military Academy.
Chief of Naval Research.
Naval Inspector General.

Chief, Bureau of Medicine and Surgery (Surgeon General) (Navy).
Attending Physician to Congress.
Chief Dental Division, Bureau of Medicine and Surgery (Navy).
Judge Advocate General of the Navy.
Deputy Judge Advocate General of the Navy.
Assistant Judge Advocate General of the Navy.
Chief of Chaplains (Navy).
Chief Office of Air Force Reserve.
Judge Advocate General of the Air Force.
Surgeon General of the Air Force.
Dean of the Faculty, United States Air Force Academy.

Dr. KORB. These amendments will not constitute a reduction in the number of general and flag officers on active duty. Furthermore, they are not intended to suggest that the grades currently specified in law are inappropriate. Instead, the amendments would permit the Secretary of Defense and the secretaries of the military departments greater flexibility in the management of the senior officer resource.

While the minimum grades for these positions have been repealed by the amendments, the positions themselves would continue to be recognized in law. We believe this preserves the original intent of the Congress in specifying these positions as part of the structure of the military services.

The proposed legislation would leave unchanged minimum grade requirements for 26 general and flag officer authorizations currently prescribed in law which are listed in table II.

TABLE II.—POSITIONS RETAINING MINIMUM GRADE

JCS

Chairman, Joint Chiefs of Staff.

ARMY

Chief of Staff.
Vice Chief of Staff.
Deputy Chief of Staff (Personnel).
Deputy Chief of Staff (Operations and Plans).
Deputy Chief of Staff (Logistics).
Deputy Chief of Staff (Research Development and Acquisition).
Chief of Engineers.

NAVY

Chief of Naval Operations.
Vice Chief of Naval Operations.
Deputy Chief of Naval Operations (Manpower, Personnel and Training).
Deputy Chief of Naval Operations (Logistics).
Deputy Chief of Naval Operations (Plans, Policy and Operations).
Deputy Chief of Naval Operations (Air Warfare).
Deputy Chief of Naval Operations (Surface Warfare).
Deputy Chief of Naval Operations (Submarine Warfare).
Admiral Rickover.

MARINE CORPS

Commandant.
Assistant Commandant.

AIR FORCE

Chief of Staff.
Vice Chief of Staff.
Deputy Chief of Staff (Manpower and Personnel).
Deputy Chief of Staff (Plans and Operations).
Deputy Chief of Staff (Logistics and Engineering).
Deputy Chief of Staff (Research, Development and Acquisition).
Deputy Chief of Staff (Programs and Resources).

Dr. KORB. The minimum grade requirements for these authorizations were retained because they constitute the basic organizational

structure for the senior staffs of the military services and the Joint Chiefs of Staff. Of the 26 authorizations, 7 are in the Army; 9 are in the Navy, including Admiral Rickover's authorization; 2 are in the Marine Corps; 7 are in the Air Force; and 1 is in the Joint Chiefs of Staff.

The positions of Chairman of the Joint Chiefs of Staff, the chiefs and vice chiefs of the military services, Chief of Engineers in the Army, and the position occupied by Admiral Rickover, are specifically authorized by law. The remainder are established as ceilings which may not be exceeded.

Specifically, the Army is authorized to designate up to four Deputy Chiefs of Staff; the Navy is authorized to designate up to six Deputy Chiefs of Naval Operations; and the Air Force is authorized to designate up to five Deputy Chiefs of Staff. All of the positions are designated and currently manned.

The positions of the Chairman of the Joint Chiefs of Staff and the military chiefs of each of the services carry a minimum grade requirement at the four-star level. The remainder, except for the two-star position of the Army Chief of Engineers and the special law which authorizes the four-star grade for Admiral Rickover, carry a minimum grade requirement at the one-star level.

The proposed legislation would exclude from grade accountability Reserve Forces positions that are filled by Reserve component general or flag officers on active duty. This revision is necessary to maintain consistency with the philosophy in the Defense Officer Personnel Management Act (DOPMA) as it applies to the accountability of other statutory positions in the Reserve Forces.

Under DOPMA, grades below the general and flag officer level are not chargeable to active force grade accountability and are controlled separately. This is because incumbents to these positions are managed under a distinctly separate personnel management system from that governing the Active Force.

For example, Reserve Force personnel do not compete for promotion with Active Force personnel, nor are they subject to worldwide utilization like Active Force personnel. The same applies to general and flag officers in the Reserve Forces. In addition, these personnel are funded and authorized under a separate account.

Also excluded from grade ceiling accountability is the position of the Attending Physician to Congress. We believe this exclusion is appropriate, in view of the function of this position which bears no direct relationship to the military mission of the services.

We do not intend to increase the numbers of general and flag officers from the current level of 1,119 as a result of these changes. Our purpose here is to establish an accounting baseline for subsequent legislation that will address general and flag officer requirements in more specific detail. The positions that would be excluded from grade accountability are listed in in table III.

TABLE III.—POSITIONS ELIMINATED FROM GRADE ACCOUNTABILITY

**Military Advisor to the Chairman and Executive Officer, Reserve Forces Policy Board.**
**Chief of the National Guard Bureau.**
**Chief of Army Reserve.**

Advisor to the Chief of Staff, U.S. Army, for Reserve Affairs.[1]
Advisor to the Chief of Naval Operations for Reserve Affairs.[1]
Deputy Chief of Staff for Reserve Affairs, U.S. Marine Corps.[1]
Advisor to the Chief of Staff, U.S. Air Force, for Reserve Affairs.[1]
Chief Office of Air Force Reserve.
Attending Physician to Congress.
General and flag officers on active duty under sections 265 and 672(d) of title 10.

Dr. KORB. Language has been included that would insure that a general or flag officer who is an incumbent in any of the positions affected by this proposal, on the day before the effective date of this bill, would continue to hold the grade specified in law while remaining in his immediate position and would retain all rights and privileges of retirement to which he was entitled because of service in the position. This would reduce the amount of personnel turbulence involved in any future adjustments in grade resulting from the proposed legislation.

Finally, language has been included that would defer for 1 year the existing October 1, 1981, ceiling of 1,073 general and flag officers.

This provision would allow us to continue with our efforts to prepare and submit comprehensive general and flag officer legislation that would reform remaining provisions of law in order to, among other things, establish a more rational basis for evaluating general and flag officer requirements.

If this ceiling is not deferred, the military services would have to reduce their general and flag officer strengths by 46 from the current level of 1,119. The services have already placed a moratorium on promotions and have prepared contingency plans to meet the mandated ceiling. Although the ceiling can be reached by October 1, 1981, we would like to avoid the turbulence of such a reduction. This will give us time to complete the last segment of legislation to reform general and flag officer management.

While it is true that we have already been given a 1-year reprieve. I believe we have demonstrated our resolve, in DOPMA and in this legislation, to complete in good faith the remaining task.

A schedule outlining our work plan for the last piece of legislation has been provided to the committee. It has not been easy to make the changes in laws that have long been operative and we have proceeded with due caution and deliberate speed.

With the continued cooperation between our staffs, I am confident that we will be able to submit the last piece of legislation to you early next year that will tie together the loose ends in a long-overdue overhaul of the system of general and flag officer management.

Mr. Chairman, that concludes my prepared statement. I would be pleased to respond to any questions.

Senator JEPSEN. Senator Exon?

Senator EXON. Thank you, Mr. Chairman.

Dr. Korb, I think I basically understand what you are trying to get at here, and I guess my first question to you would be, from your perspective—and I know you have only been in this job a relatively short period of time—in your perspective, do you believe that the actions by this committee and the Congress previously to attempt to set

[1] When filed by Reserve component officer on active duty.

a level of general and flag officers was a good one, or would you rather not have it in place at all?

Dr. KORB. I think the actions of this committee in forcing the Department to develop a rational structure justifying the general and flag officer system has been very helpful. I think the number of 1,073 or 1,119, neither of those numbers are sacred nor do they preordain any analysis that we might come up with.

What we are in the process of doing now—and we submitted a lot of material to the committee—is to try and see exactly how many we do need.

My basic feeling is that 1,073 probably is not the right number. I am not quite sure what the right number should be, and that is basically what we are working on right now.

Senator EXON. You say in your prepared statement that "We do not intend to increase the numbers of generals and flag officers from the current level of 1,119 as a result of these changes."

Can you amplify on that just a little; in other words, what you are telling us is that you need some flexibility but is it your intention not to go above that 1,119 figure?

Dr. KORB. Senator, I believe that is in regard to the provision about exempting Reserve officers on active duty.

What we are saying basically is that even though we don't want these people to be counted, we are not using that as a ruse to go above the 1,119 should we be given the 1-year extension.

What we are saying is that in the final legislation—this is an interim step—we do not feel it is appropriate for Reserve officers temporarily on active duty to be counted in this particular number. This is consistent with the provisions of DOPMA as they apply to colonels and Navy captains and below.

Senator EXON. But the effect of that would be to allow you to have more generals and flag officers, would it not?

Dr. KORB. Well, let me put it this way: When we present our final plan we will show how those exclusions would be counted in arriving at the total number.

My intention now is to say that in asking you to enact this legislation we are not going to immediately go above the current 1,119 figure but that would not preclude us from adjusting after final legislation is completed.

Senator EXON. In view of the obvious restraints that we have in the military today, the announcement of the President that he is recommending $13 billion, as yet unspecified, cuts in what the administration has recommended to us, and what we had enacted, how do you justify going up in the number of generals and flag officers?

Dr. KORB. Well, basically, Senator, we are not justifying going up. We have actually come down since 1978 and compared to any of the major allies we have an excellent general-officer-to-enlisted ratio. Our general and flag officers also control much larger amounts of resources than any of our major allies.

What we are asking the Senate to do is to allow us to stay basically where we are for another year, until we can come up with a rational plan to justify the number of people that we need.

As you well know, we were directed to come down to this 1,073 level pending a complete analysis of the situation. What we are asking

for is another year, to stay at about where we are, while we go through the process of actually justifying all of the positions that we need.

Senator EXON. Well, it depends on which figure you start from, but certainly the intent of your request to this subcommittee is not to further reduce general and flag officers. I must assume that certainly with the elimination of the Reserve officers you mentioned, it would give you more flexibility, would it not, to put more flag and general officers on staffs?

Dr. KORB. No, sir; it would not. What we are saying is, the Reserve legislation is a step that we want to go forward with now. It is consistent with DOPMA and would establish an accounting category that will help rationalize to the committee the final number we arrive at in our follow-on legislation. In other words, right now we have 1,119, and included in that are the Reserve numbers. We would not use the Reserves to go above the 1,119 number. However, since the Reserves are included in the 1,119 figure, it may be that our validation of Active Force requirements may justify a higher or lower total figure.

Senator EXON. Are you not in a position to tell us at this time how many general and flag officers we should have, whether they are in the Reserves or Active?

Dr. KORB. I am not in a position to give you a specific number that I can justify myself, analytically.

Now, I know that the committee has been after the Department for a number of years, and I don't mean to cast aspersions on any of the people that have gone before me, but when I took over this office, it was my understanding that the previous Deputy Secretary of Defense, Mr. Claytor, had an agreement with the Congress that he would get another year's extension, and we could do the analysis. That is the basis on which I started.

When I came into office, analysis had not been done to justify on a rational basis the number of people that we needed.

We have since submitted to the committee a plan that tells you the steps that we will take. As soon as I came into office I initiated action to make sure that as quickly as possible we could have a rational plan that once and for all would tell us the right number of general and flag officers we need.

Senator EXON. Dr. Korb, if the current ceiling was not deferred for another year, how will the services make the necessary reductions?

Dr. KORB. Since the Department must remain within existing law, we have slowed down promotions of people who have been selected. By not promoting, we can stay within the ceiling.

Senator EXON. So, if I understand you correctly, if necessary, you have made the steps to get down to the mandate of the Congress, but you have done that by disruption of what you think should be fair and equitable promotions; is that correct?

Dr. KORB. That is correct, yes, sir. We obviously must comply with the will of Congress, and we have taken the steps necessary to do so; but I think your point is well taken. The services proceeded on the basis of the agreement which, again, as I said, had been worked out before we came in, with the former Deputy Secretary of Defense, and their promotion systems proceeded accordingly.

I think there would be a great deal of turbulence and morale would suffer if we had to live with the ceiling.

Senator EXON. I want to congratulate both your predecessor and you for at least making a valiant effort by whatever means were necessary to get down to the mandate of the Congress.

I, for one, don't want to be unreasonable on this matter at all, but let me say that if we accept and give you the 1-year extension, let us amplify a little bit more about when you think you would be able to come back and give us a detailed proposal on what the maximum should be and how it is to be applied in the future. Do we have a date in mind?

Dr. KORB. We are talking, in accordance with the timetable we have already submitted to the committee, to the first part of next year, February or March of next year. We have provided to the committee, because we recognize that the Department basically had been draging its feet in this area, a detailed timetable in which we would submit all of the required actions; and this is just one milestone on the way to that particular provision.

Senator EXON. What criteria did you use to determine that the positions with minimum grades remaining in law were essential to the structure of the services? Have you had time to study that detail? What are the criteria?

Dr. KORB. In our proposal, we are asking that the minimum grade requirement be repealed for those positions that we feel the Secretary of the military departments or the Secretary of Defense ought to have flexibility to man in grades consistent with the requirements for the positions depending upon existing circumstances.

By and large, the criterion which we apply is, is it absolutely necessary that this particular position be manned by a flag or general officer? If it is not, then we want to have the flexibility not to do so. That is the criterion which we are using. In other words, what we are justifying is why a position must be filled by a flag officer, and if so, why a one-, two-, three-, or four-star grade.

Senator EXON. That is an adequate criterion as far as I am concerned. I have never been one that is particularly enamored with this situation of the Congress going overboard in setting a minimum number of stars that an officer has to have in a certain position. I generally would be for granting as much flexibility as reasonable and possible.

I guess you are saying, if you had your druthers, you probably would not want to have any minimum grades in law?

Dr. KORB. Basically, except for the positions that I mentioned, in terms of the Chairman of the Joint Chiefs of Staff and those positions.

Senator EXON. The Joint Chiefs?

Dr. KORB. Yes.

Senator EXON. I have no further questions at this time, Mr. Chairman.

Senator JEPSEN. Dr. Korb, what is the required number of flag and general officers presently on active duty?

Dr. KORB. About 1,080, Mr. Chairman.

Senator JEPSEN. How did the Department of Defense accomplish this reduction?

Dr. KORB. Basically, by slowing down promotions.

Senator JEPSEN. As I understand it, that is right. Has that reduction had any adverse effects on the readiness, morale or the mission requirements?

Dr. KORB. Well, I think it is tough to measure, but it has created a great deal of uncertainty in the minds of people who are making their decisions on whether or not to remain on active duty in anticipation of a promotion which they had expected.

It is also very difficult to measure because, in fact, we are still hopeful that we can obtain relief from the strength ceiling so that we can promote the people according to the schedule which was laid out earlier in the year.

Senator JEPSEN. I expect we can get a more definitive answer if we ask a certain group of colonels?

Dr. KORB. Especially those on the promotion list, I think.

Senator JEPSEN. This subcommittee is inclined to grant the extention. We are going to adjourn this meeting very quickly and go into executive session to discuss the markups.

I would ask you, Dr. Korb, if the first of February, I think, is probably a date that we are going to be discussing and playing toward, in completing your recommendation, so that we have approximately the latitude of 6 months to act? In your judgment now, having had some time to see this go on, do you think by the first of February you can come in with your final recommendation?

Dr. KORB. Yes, sir; I do.

Senator JEPSEN. The subcommittee will stand at ease for just a moment.

[Brief recess.]

Senator JEPSEN. The Chair would ask additional questions, and ask that they be submitted and placed in the record, and the answers be submitted in writing, if there is no objection to that. And I hear none.

[The questions to be answered for the hearing record follow:]

QUESTIONS SUBMITTED BY SENATOR ROGER W. JEPSEN

INDEPENDENCE OF JUDGE ADVOCATE GENERAL POSITIONS

Senator JEPSEN. Dr. Korb, many of the responsibilities and duties of the Judge Advocates General of the various services are judicial in nature. They require the exercise of independent professional judgment, uninhibited by military or civilian command influence. The Congress was deeply concerned about this independence, both in reality and perception, when it enacted the Uniform Code of Military Justice.

Because of the unique responsibilities of the Judge Advocates General, I am concerned that repeal of their minimum grades could constitute a basic change in the checks and balances of the UCMJ and in the existing independence of these offices.

What are your thoughts on this issue?

Answer. We were similarly concerned when drafting the legislation. To comply with the committee's direction that we reneal all minimum grade requirements for general and flag officers and yet preserve at least a certain degree of independence for the Judge Advocates General positions, we wrote the proposed legislation to include language that would establish the Secretary of Defense as the agent for determining the appropriate grade for these positions. The bill was written that way to insure oversight at the Secretary of Defense level and to protect these positions from undue influence at the individual service level. We envision that the Secretary of Defense, in consultation with his General Counsel, will be in a position to preserve the necessary degree of independence for these positions from military or civilian command influence.

We also left intact the existing provisions in law requiring that appointments to these positions be made by the President, by and with the advice and consent of the Senate. This preserves the independent oversight of the President and the Senate over these positions.

In combination, I believe the language we have included in our proposal and the provisions in current law provide for adequate safeguards.

RETENTION OF MINIMUM GRADES FOR 25 POSITIONS

Senator JEPSEN. Dr. Korb, your proposal retains 25 positions for which a minimum grade requirement will be specified in law.

(a) What is the justification for keeping deputy chiefs and vice chiefs at a 3 or 4 star statutory grade?

(b) Why shouldn't the Secretary of Defense and the Secretaries of the Military Departments have the flexibility to lower or raise the rank of the officers holding these positions?

It is difficult for me to understand the necessity for some of these minimum grades. For example, the proposed legislation would retain the minimum grades for the Deputy Chiefs but not for the Chief of the Strategic Air Command. Could you please explain this difference?

Answer. (a) None. The positions are established as minimum grade requirements at the 1-star level in existing law prescribing the staffs of the Army, Navy, Air Force and Marine Corps. We retained the 1-star minimum grade requirements for these positions because these positions constitute the core of the general and flag staffs of the military services.

(b) Since the minimum grade requirement for these positions is established at the 1-star level, the Secretaries of Defense and Military Departments have the flexibility to man these positions at the appropriate general officer grade. At the present time, all of these positions are manned at grades above the 1-star minimum. Appointments to these positions are made by the President, by and with the advice and consent of the Senate.

(c) As indicated in the answer to question (a), the Deputy Chief positions are statutory authorizations provided for in the laws prescribing the basic staff of the military services for which a minimum grade requirement has been established. There are no similar statutory provisions that prescribe specific operational commands for the services; however, the authority to do so is vested in the secretaries of the Military Departments. The determination of the appropriate grades for the commanders of operational units, such as SAC, are made accordingly. The distinction lies in the permanent nature of the basic staffs of the military services and the more dynamic nature of operational organizational requirements.

NUMBERS OF GENERALS AND FLAG OFFICERS

Senator JEPSEN. Dr. Korb, in testimony before this Committee, Admiral Rickover stated that immediate, as well as long range, fiscal benefits could be realized if personnel requirements were reduced. He went on to suggest that one simple and effective way to do that would be to immediately reduce the number of flag and general officers in all the military services. According to the Admiral, their number has undergone a disproportionate inflationary spiral by any standard of comparison.

(a) Do you agree with Admiral Rickover's assessment that the military has experienced a significant inflationary spiral in the number of flags and generals?

(b) If our country was victorious in World War II with one such officer for every 6,000 military personnel, why do we need one flag or general officer for every 1,800 personnel today?

(c) What percentage of flag and general officers are directly or indirectly involved in Research and Development?

(d) Dr. Korb, if general officer requirements should not be based upon gross size of the force, what factors does your Department consider in arriving at an appropriate number of flags and generals?

(e) I have heard that if you reduce the number of flags and generals, you diminish the morale and psychological factors of those mid-grade officers aspiring for career advancement. The opportunity for promotion to the flag rank becomes very remote. Do you agree that this plays an important role in management decisions affecting the number of admirals and generals?

Answer. (a) No. The number of general and flag officers in proportion to the total military population is leaner today that it was between the period following World War II and the Korean Conflict (1946–50). Yet, we have much larger world-wide military commitments to meet than during that period and vastly larger amounts of resources in terms of dollars and equipment to manage. When compared to our larger Western allies, our general and flag officers manage more dollar resources in terms of annual military budgets than any of them and are leaner in terms of generals and flags per military member than all except one—the Federal Republic of Germany—with which we are about even. These facts indicate to me that we have been very economical in managing our general and flag officer assets.

(b) The ratio of general and flag officers to total military personnel has always been leaner in wartime because we have had to mobilize to meet increased force requirements. At the height of World War II, the military population was about 6½ times the size of the force immediately before mobilization while the general and flag officer force grew only about 2½ times over the same period. Consequently, the ratio of general and flag officers in relationship to the total military population "improved" to the level of one to 5,500. Following demobilization, the ratio stabilized at an average of one to 1,790 until the peak of the Korean Conflict when it again "improved" to one to 3,170. My point is that the validity of the requirements for general and flag officers cannot be determined by applying fixed ratios as measures without taking into account the circumstance under which such ratios were derived. For example, it would probably be more appropriate to measure today's ratio with that which existed between World War II and the Korean Conflict. In those terms. we are at about the same ratio. Even so, that does not mean that it is a valid measure since we obviously operate in a much more sophisticated environment now than we did then. The number of general and flag officers we have today is not based on any ratio but on individual manpower validation of specific billet requirements.

(c) About 4 percent of our general and flag officers are directly or indirectly involved in research and development.

(d) That is one of the things we hope to satisfactorily address in our comprehensive legislation. We currently envision categorizing general and ffag officer positions in three ways: (1) those which are related to the structure of the service; i.e., those which would exist regardless of force size; (2) those which are strength related, primarily support functions which grow and diminish with force size; and (3) those which are the result of external requirements; i.e., those not directly related to the Department of Defense mission. Thus, we envision some fixed number with a variable overhead that would be related to total force size.

(e) Career opportunity is indeed a consideration in establishing the numbers required; however, it is not the sole nor necessarily the most important factor. The opportunity for advancement to general and flag rank is already extremely small. Reducing general and flag officers authorizations would obviously even further reduce the opportunity and act as a disincentive for our "best and brightest" to stay on and compete. We are mindful of this and believe that we must guard against being "penny wise and pound foolish" in this regard. From the standpoint of compensation, the difference between a general and flag officer at the capped pay level and that of a senior O–6 is becoming less significant. Thus, the psychological value of recognition through promotion is increased. We recognize this as a factor in developing our requirements.

Senator EXON. Dr. Korb, on this matter of minimum grades for the judge advocates general which I am sure you know is causing some controversy, will removing minimum grades in law for the judge advocates general of the services in any way, in your opinion, compromise the independence of the individuals assigned to these positions? That is something that we have heard a great deal about.

Dr. KORB. No, sir, I don't believe it will; and, as I mentioned in my testimony, we have no intention at this particular time to downgrade the positions. What we are asking for, as I mentioned before, is that as circumstances change, we give the Secretary of Defense and the

Secretaries of the Departments the flexibility to deal with that particular situation.

Senator EXON. That is back to my questions and your answers of a few minutes ago, that you don't believe that minimum grades in this particular area serve a useful purpose and that you feel the argument we have received, that by not leaving that in there, some way we may tend to disrupt the justice system?

Dr. KORB. I don't believe that.

Senator EXON. I wasn't sure you understood my earlier question on this matter of the Reserve officers, the general officers, of which I believe there are nine in the Reserves, out of the ceiling of 1,119; is that correct?

Dr. KORB. It is about 10 right now.

Senator EXON. Now, my question is this: If we, as you request, go along without counting these 9 or 10 officers in the 1,119 ceiling would that not allow the Department 10 more general or flag officers, or we could answer the problem the same way by going up to 1,129, could we not?

Dr. KORB. I guess if you took a look at it that way, you could; but what I am saying, Senator, is that when we do our analysis we will verify our Active and Reserve force requirements. It may turn out that the combined numbers will exceed 1,119. However, we will not exceed that combined number in the interim. We agree to stick to that ceiling until we can justify a higher number if it is appropriate.

Therefore, when we come up with the final combined number, let us say the number is roughly 1,120, and we exclude Reserves, we would come in at 1,110 on the Active side. If we didn't exclude Reserves, we would have to ask you for 1,120. We are not trying to get around the law, but merely assure that we account for these positions in an understandable fashion.

Senator EXON. If we go along with this and we grant your plan, I think it is critically important that you just lay it on the line. If you need more general and flag officers, tell us. I don't think the committee is interested in playing numbers games by trying to shift around 9 or 10 here to increase. I think we would rather face it head on, and we might argue with you, but if you say that you need 1,129, then at least lay it out.

Dr. KORB. That is right, and that has been our intention. We are mainly asking for this provision because these people are promoted separately, and they are managed separately, and because we want to be consistent with DOPMA.

Senator EXON. As I understand it then, it seems clear to me when you come in with your proposal in February you will eliminate this matter of counting these 9 or 10 officers that I can see causes some problems within your overall structure?

Dr. KORB. That is right.

Senator EXON. Let us either put them in or take them out.

Dr. KORB. We will be consistent, depending upon how you act on our proposal today. If you tell us that they can be excluded, then the number will be correspondingly less; and if you tell us we have to count them, we will have to put them in that way.

Senator EXON. But one of the risks that we seem to be running with that kind of theory would be that if we allow the exemption in

these 9—and that is a basic point I am trying to get at— it seems to me if we say, OK, you don't have to count those 9 or 10, then aren't we—unless we take additional action and say, "OK"—then really what it means is, you can go up to 1,129?

Dr. KORB. Yes, Senator, that would be correct.

For example, as I mentioned, right now, even if you give us the exclusion, we won't go above 1,119. Basically, what we are saying is, we need 1,110 Active duty, and 9 for these Reserves; that is how we come up with the 1,119.

Senator EXON. Thank you.

I have no further questions, Mr. Chairman.

Senator JEPSEN. I have been informally advised by my staff that there may be a problem in continuing the ongoing promotion programs in the military services pending Senate confirmation of the officer nominations required by the transition provisions in title VI of the Defense Officer Personnel Management Act, which is Public Law 96–513, 94 Stat. 2940, as amended by Public Law 97–22.

I would like to clarify the matter by saying it is my opinion it was never the intent of the committee that the promotion of any officer who was on a list before September 15, 1981, be held up as a result of the transition from the old law to the new.

The general savings provision in section 703 of the act should pertain in this matter.

Dr. KORB. We appreciate that, Mr. Chairman. That is a great help to us.

Senator JEPSEN. At this time we simply intend to go into markup. Contrary to what I said before, we have had a meeting and taken a unanimous vote and we are going to just continue on in open session and mark up the bill.

You are welcome to stay or you are welcome to leave.

Dr. KORB. Thank you, Mr. Chairman.

Senator JEPSEN. Is there anything else we need on the record. If not, the meeting is adjourned.

[Whereupon, at 11:15, the subcommittee was adjourned, subject to call of the Chair.]

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